

Does the FMLA grant leave for foreign adoptions?

Q. One of our employees is adopting a 5-year-old Ethiopian child and has asked for leave to travel to complete the adoption and bond with the child when they return to Minnesota. Does this count as FMLA leave, since it is not leave within the first year of the child's life? If it does, is the travel time eligible for FMLA leave?

A. Provided that the employee is eligible for FMLA leave and must travel to Ethiopia for the adoption to take place, he would be eligible to take FMLA leave for this adoption.

The FMLA grants an employee up to 12 weeks of leave for the birth of a child and for placement with a child for adoption or foster care. An employee's entitlement to FMLA leave for a birth expires at the end of the 12-month period beginning on the date of the birth.

When an employee takes leave for adoption or foster care placement, the employee's entitlement to FMLA leave expires at the end of the 12-month period beginning on the date of placement.

In addition, employees may take FMLA leave before an actual adoption or placement if absence from work is required for adoption or foster-care placement to proceed. Therefore, employees can take FMLA leave to travel to another country to complete an adoption, attend court hearings and required counseling sessions and meet with attorneys regarding an adoption.